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An Act To Transfer Authority for School Food Service Programs to the Department of Agriculture, Food and Rural Resources

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 7 MRSA §219 is enacted to read:

§ 219. School food service programs

The commissioner shall administer school food service programs in accordance with Title 20-A, chapter 223, subchapter 7.

Sec. 2. 20-A MRSA §6601-A is enacted to read:

§ 6601-A. Administration by the Department of Agriculture, Food and Rural Resources

The Commissioner of Agriculture, Food and Rural Resources shall administer school food service programs. For the purposes of this subchapter, "commissioner" means the Commissioner of Agriculture, Food and Rural Resources and "department" means the Department of Agriculture, Food and Rural Resources.

Sec. 3. 20-A MRSA §6602, sub-§3, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

3. Administration. ~~The school board shall administer and operate the food service programs. The school board upon approval of the commissioner:~~

A. Shall make all contracts to provide material, personnel and equipment necessary to carry out section 6601; and

B. Shall hire the necessary employees to manage and operate their school food service programs.

Sec. 4. 20-A MRSA §6602, sub-§5, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

5. Rules. ~~The commissioner shall adopt or amend, with the state board's approval, rules under this subchapter, including except that rules about the qualifications of food service programs' personnel are adopted by the Commissioner of Education. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.~~

Sec. 5. 20-A MRSA §6602, sub-§12, as enacted by PL 2001, c. 447, §1, is amended to read:

12. Local Produce Fund. ~~The Local Produce Fund is established within the Department of Education department.~~ The fund is authorized to receive revenue from public and private sources. The fund must be held separate and apart from all other money, funds and accounts. Any balance remaining

in the fund at the end of the fiscal year must be carried forward to the next fiscal year. The fund must be used to match \$1 for every \$3 a school administrative unit pays for produce or minimally processed foods purchased directly from a farmer or farmers' cooperative in the State, to a maximum state contribution of \$1,000. At the end of the fiscal year, the school administrative unit may provide the department with receipts documenting purchases pursuant to this subsection during that year. For purposes of this subsection, "minimally processed" means only the washing, cleaning, trimming, drying, sorting and packaging of food items or a combination of those activities. Reimbursement or partial reimbursement to school administrative units may only be made up to the amount available in the fund. Failure to reimburse does not constitute an obligation on behalf of the State to a school administrative unit.

Sec. 6. Waiver. The Commissioner of Education and the Commissioner of Agriculture, Food and Rural Resources shall make a formal request to the United States Department of Agriculture for a waiver of the requirement that the state educational agency administer the National School Lunch Program, 7 Code of Federal Regulations, Part 210.3(b), the School Breakfast Program, 7 Code of Federal Regulations, Part 220.3(b) and the Special Milk Program for Children, 7 Code of Federal Regulations, Part 215.3(b).

Sec. 7. Transition provisions. All rules and procedures adopted by the Department of Education for administering school food service programs and in effect on the effective date of this Act continue in effect until the Commissioner of Agriculture, Food and Rural Resources has adopted rules and established procedures to implement administration of school food service programs. The commissioners shall work cooperatively to expedite the transfer of responsibilities.

Sec. 8. Contingent effective date. Those sections of this Act that enact the Maine Revised Statutes, Title 7, section 219 and Title 20-A, section 6601-A and amend Title 20-A, section 6602, subsections 3, 5 and 12 do not take effect unless:

1. The United States Department of Agriculture grants the State a waiver from the requirement that the state educational agency administer the National School Lunch Program, the School Breakfast Program and the Special Milk Program and approves the transfer of the administration for these programs from the Department of Education to the Department of Agriculture, Food and Rural Resources; and

2. The Commissioner of Agriculture, Food and Rural Resources notifies the Secretary of State, the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes that written approval for the transfer has been received.

In no event may this Act take effect until 90 days after adjournment of the Legislature.

SUMMARY

This bill transfers responsibilities for administering school food service programs from the Department of Education to the Department of Agriculture, Food and Rural Resources upon approval of the United States Department of Agriculture. It provides for a transition period until the department has the necessary rules and procedures in place to implement the transfer.